

O-2013-25

AN ORDINANCE

EXTENDING THE TEMPORARY MORATORIUM ON THE LICENSING, PERMITTING, ESTABLISHMENT OR OPERATION OF ANY NEW BUSINESS THAT SELLS, CULTIVATES OR TESTS MARIJUANA OR MANUFACTURES MARIJUANA PRODUCTS AND ANY MARIJUANA ENTERPRISE, AS DEFINED HEREIN, PURSUANT TO AMENDMENT 64, APPROVED BY COLORADO VOTERS AT THE NOVEMBER 6, 2012 ELECTION AND CODIFIED AT ARTICLE XVIII, SECTION 16 OF THE COLORADO CONSTITUTION, AND REPEALING ORDINANCE O-2013-7

WHEREAS, pursuant to Amendment 64 to the Colorado Constitution, which was approved by the voters of the State of Colorado in November 2012 ("Amendment 64"), and which is codified as Article XVIII, Section 16 of the Colorado Constitution, persons twenty-one (21) years of age or older are allowed to consume or possess limited amounts of marijuana, referred to frequently as non-medical or recreational marijuana ("Adult-Use Marijuana"); and

WHEREAS, Amendment 64 also provides for the licensing of marijuana cultivation facilities, product manufacturing facilities, testing facilities and retail stores; and

WHEREAS, Amendment 64 provides that local governments may adopt their own regulations governing certain aspects of Adult-Use Marijuana-related businesses, or may choose to prohibit any or all of the four (4) categories of Adult-Use Marijuana-related businesses either by ordinance adopted by the City Council or through a vote of the electorate no earlier than the November 2014 election; and

WHEREAS, in response to Amendment 64, the City Council initially enacted a temporary moratorium against the licensing, permitting, establishment or operation of any new business that sells, cultivates or tests marijuana or manufactures marijuana products and any marijuana enterprise pursuant to Ordinance O-2013-7; and

WHEREAS, in accordance with Ordinance O-2013-7, such moratorium was set to expire on January 1, 2014; and

WHEREAS, after careful consideration, the City Council believes that the most prudent approach to promoting and protecting the health, safety and welfare of the citizens is to extend the temporary moratorium against the licensing, permitting, establishment or operation of any new business that sells, cultivates or tests marijuana or manufactures marijuana products and any marijuana enterprise as defined in this Ordinance, until February 1, 2015 in order

to afford the City Council the opportunity to monitor the implementation of Amendment 64 in other local jurisdictions and to await answers to some of the outstanding questions about how marijuana businesses would operate; and

WHEREAS, the City Council finds that allowing “Marijuana Enterprises,” also known as marijuana social clubs, where business owners allow for large numbers of individuals to gather in a nonresidential zoned area for the purpose of smoking marijuana, would present a significant hazard to the public health, safety and welfare and is not authorized by Amendment 64 or any other Colorado law; and

WHEREAS, the City Council further finds that a temporary moratorium against the establishment or operation of Adult-Use Marijuana Enterprises is within the City’s authority to regulate the uses of land and buildings; and

WHEREAS, in accordance with Amendment 64, the City Council hereby finds that an extension of the temporary moratorium against the licensing, permitting, establishment or operation of any new recreational marijuana-related business and any Marijuana Enterprise is necessary until February 1, 2015 to (a) maintain the status quo; (b) allow the City Council and staff to review and understand any new regulations adopted by the state; (c) give the City Council a full and fair opportunity to monitor the licensing of marijuana-related businesses in other communities and determine which of the available options is appropriate to protect the health, safety and welfare of the residents of Lakewood; and (d) provide the citizens of Lakewood an opportunity to vote on marijuana-related businesses at the November 2014 election; and

WHEREAS, the provisions of this Ordinance are not intended to and shall not affect the validity of any lawfully existing Medical Marijuana Center or other Medical Marijuana business operating pursuant to Chapter 5.51 of the Lakewood Municipal Code.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado:

SECTION 1. The foregoing recitals are incorporated and made part of this Ordinance.

SECTION 2. Pursuant to the terms of Amendment 64, the temporary moratorium imposed by Ordinance 2013-7 against the establishment of any new marijuana cultivation facility, product manufacturing facility, testing facility or retail store, as those businesses are defined by Amendment 64 to the Colorado Constitution, or any Marijuana Enterprise within the legal boundaries of the City of Lakewood, is hereby extended until February 1, 2015. As used herein, “Marijuana Enterprise” means an organization, business, club, or other commercial operation in a residential or nonresidential zone that allows its

members and their guests to sell, buy and/or consume marijuana or marijuana products on the premises. A Marijuana Enterprise includes enterprises that have been referred to as marijuana social clubs, but does not include any Medical Marijuana Center or other Medical Marijuana business operating pursuant to Chapter 5.51 of the Lakewood Municipal Code. In accordance with this Ordinance, no application for a license or permit to operate any of the foregoing businesses may be submitted, accepted, reviewed or approved.

SECTION 3. During the moratorium imposed by this Ordinance, the City Council directs City staff to provide regular status reports on state regulations, actions of the federal government, and other matters necessary for the City Council's evaluation of its various options, to prepare and present at an appropriate time a draft of a recreational marijuana licensing ordinance, and to provide an ultimate recommendation to the City Council of a proposed course of action.

SECTION 4. Pursuant to the terms of Amendment 64, Lakewood voters have the option to place on the November 2014 election ballot a question proposing a ban on any or all of the categories of marijuana businesses referenced herein. The temporary moratorium imposed by this Ordinance shall remain in effect until February 1, 2015, so that the City will have a reasonable opportunity to adopt licensing regulations, if needed, following the November 2014 election. This Ordinance shall terminate by operation of law on February 1, 2015, unless terminated earlier by the City Council by ordinance.

SECTION 5. The provisions of this Ordinance are not intended to and shall not affect the validity of any lawfully existing Medical Marijuana Center or other Medical Marijuana business operating pursuant to Chapter 5.51 of the Lakewood Municipal Code.

SECTION 6. Ordinance 2013-7 is hereby repealed in its entirety.

SECTION 7. This Ordinance shall take effect thirty (30) days after publication following final passage.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a regular meeting of the Lakewood City Council on the 14th day of October, 2013; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 17th day of October, 2013; set for public hearing on the 28th day of October, 2013, read, finally passed and adopted by the City Council on the _____ day of October, 2013 and, signed and approved by the Mayor on the _____ day of October, 2013.

Bob Murphy, Mayor

ATTEST:

Margy Greer, City Clerk

APPROVED AS TO FORM:

Tim Cox, City Attorney